

### **REMARKS**

The Official Action dated August 14, 2009 has been carefully considered. Accordingly, the present Amendment is believed sufficient to place this application in condition for allowance. Reconsideration is respectfully requested.

By the present amendment, claim 15 is cancelled, and claim 26 is amended to include limitations of claim 15 and for several matters of clarity. Claim 32 is similarly amended for matters of clarity as are claims 7, 8, 13, 14, 18, 20, 21 and 29. Claim 3 is amended to recite an embodiment as shown in Fig. 4A. Accordingly, it is believed that these changes do not involve any introduction of new matter, and therefore entry is in order and is respectfully requested.

In the Official Action, claim 20 was were rejected under 35 U.S.C. §112, second paragraph, as being indefinite, as it depended from cancelled claim 19. The dependency of claim 20 has been changed to claim 26, whereby the rejection has been overcome. Reconsideration is respectfully requested.

Claims 26, 2-5, 8, 9, 11-14, 21-23, 27-29 and 32 were rejected under 35 U.S.C. §103(a) as obvious and unpatentable over the Ludde U.S. Patent No. 525,912 in view of the May U.S. Patent No. 4,751,122. The Examiner relied on Ludde as teaching a fire kindler comprising a closely-wound spiral foundation strip of combustible material such as paper which is coated with a mixture of hydrocarbons and a layer of sawdust, and the Examiner relied on May as teaching a preformed structure comprising a paper substrate with a polyethylene plastic layer. The Examiner asserted that it would have been obvious to include a layer of polyethylene as taught by May in place of the sawdust employed by Ludde. The Examiner further relied on the Sullivan U.S. Patent No. 6,136,053, in combination with Ludde and May, to reject claims 27, 28, 30 and

31 as obvious under 35 U.S.C. §103(a), on the Kaplan et al U.S. Patent No. 2,707,581, in combination with Ludde, May and Sullivan, to reject claims 6 and 7 as obvious under 35 U.S.C. §103(a), the Kunkle U.S. Patent No. 2,974,377, in combination with Ludde to reject claim 18 as obvious under 35 U.S.C. §103(a), and the Cote U.S. Patent No. 3,155,273, in combination with Ludde, May and Sullivan, to reject claim 29 as obvious under 35 U.S.C. §103(a).

These rejections are traversed and reconsideration is respectfully requested. More particularly, as defined by independent claims 26 and 32, the invention is directed to an inflammable, single-service lighting strip material assembly. The material assembly is in the form of a wound roll comprising two thin, elongate and coordinated strips, wherein one of the two strips comprises a thin paper strip and the other of the two strips comprises a thin plastic strip. Importantly, in the material assembly of each of claims 26 and 32, the strips are sufficiently tightly wound that the material assembly is adapted to resist lighting by an outside fire. Further, the coordinated strips are adapted to unwind to a non-compacted state of the material assembly adapted for lighting, and wherein, upon lighting of the material assembly in the non-compacted state, the material assembly is operable to provide an initial combustion with a generated amount of energy adapted for a subsequent secondary combustion for a lighting therefrom of an adjoining inflammable material. Claim 32 further specifies that the material assembly includes a tab extending outside the wound roll.

In contrast to the claimed material assemblies, Ludde discloses a long web or strip of rolled paper rolled into a compact form and provided with an ignition strip C to produce a substantially solid fire kindler (see lines 47-58). Thus, in distinct contrast to the material assemblies of claims 26 and 32, wherein the strips are sufficiently tightly wound in the roll that

the material assembly is adapted to resist lighting by a fire, Ludde discloses that the roll provides a substantially solid fire kindler, in roll form. It is error to find obviousness where references diverge from and teach away from the present invention, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Thus, Ludde does not render the presently claimed material assemblies obvious.

Further, Ludde does not disclose that the roll is adapted to be unwound to a non-compact form for lighting. In fact, the coating employed by Ludde is a mixture of hydrocarbons such as varnish drips, resin, coal-tar, or the like, to which sawdust is applied. Thus, Ludde, in effect, glues the adjacent layers of combustible material together with the hydrocarbon mixture and sawdust. Ludde further teaches away from a material assembly which is adapted to unwind to a non-compacted state adapted for lighting as presently claimed in that Ludde discloses that the ignition strip is more firmly held in position by packing the center convolution of the kindler with a saw-dust filling (see lines 58-61). While the Examiner has asserted that the device of Ludde has the inherent property of being unwound for lighting, the Examiner's assertion is opposite to the actual teachings of Ludde which employ the hydrocarbon mixture and indicate that unwinding is prevented by the saw-dust filling. Moreover, one skilled in the art will appreciate that the hydrocarbon mixture will render the Ludde material sticky and difficult to handle in an unwound form.

Ludde further fails to teach a roll formed of two thin elongate strips. To the contrary, Ludde employs a coated web to which sawdust is applied. Ludde does not teach two strips, particularly of thin paper and thin plastic.

Moreover, the deficiencies of Ludde are not resolved by May. That is, May discloses a waterproof membrane suitable for positioning between successive layers of construction

materials such as concrete. May fails to provide any teaching or suggestion of materials which are relevant to fire starting devices or which are desirably inflammable, preventing proper combination of May's polyethylene sheet with Ludde. Further, May fails to disclose a material assembly which is in a wound roll and yet is adapted to unwind to a non-compacted state adapted for lighting as presently claimed. Importantly, May provides no apparent reason for one of ordinary skill in the art to proceed contrary to the teachings of Ludde which aim for a tight, substantially solid roll fire kindler.

The Examiner asserted that it would have been obvious to add a waterproof membrane as a thin plastic layer to the long strip of rolled paper of Ludde to provide a waterproof feature. However, adding a plastic layer to Ludde's rolled paper would have resulted in either the plastic layer enclosed by the combustible (paper) layer, providing a device without the asserted waterproofing feature, or the plastic layer enclosing the combustible layer, providing a device which is not easily combustible on its outer layer and preventing air and oxygen from reaching the inner layers. Importantly, one of ordinary skill in the art would have appreciated that a plastic layer would disadvantageously impair the ability of air and oxygen from readily reaching many internal layers of the Ludde paper roll. Thus, the Examiner's motivation for combining the teachings of Ludde and May would prevent the Ludde device from operating as intended, namely as a solid roll fire kindler. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP 2143.01. Thus, the proposed modification of Ludde in view of May does not establish a

proper motivation to make the modification proposed in the Official Action and does not result in a prima facie case of obviousness with respect to the material assemblies of claims 26 and 32.

Finally, the Examiner has asserted that the polyethylene sheet of May could replace the hydrocarbon coating and sawdust of Ludde. However, since Ludde forms a solid roll fire kindler by use of the hydrocarbon coating and sawdust, omission of these elements again would prevent the Ludde device from operating as intended, namely as a solid roll fire kindler. As noted, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

*In re Gordon*, supra.

The distinctions between the claimed material assemblies and the teachings of Ludde are further apparent in view of claim 20, which recites that the wound roll is provided with a central hole, from which one end portion of the coordinated strips initially is extractable. To the contrary, in the solid fire kindler of Ludde, the center convolution of the kindler is packed with a saw-dust filling to prevent any portion of the roll from unwinding. Thus, the material assembly of claim 20 is further distinguishable from the teachings of Ludde.

According to claim 21, the wound roll is provided with a quadratic (i.e., four sided) outer shape, for example, in the form of a rectangle or square. This feature allows the material assembly to easily unwind to a non-compacted state of the material assembly adapted for lighting, even after the material assembly has been subjected to pressures which may deform the outer shape of the wound roll. Ludde provides no teaching or suggestion in this regard.

Further, according to claim 8, the paper strip has a thickness, flexural stiffness and/or resilience, with strip-associated paper fibres, to render the material assembly in the non-

compacted operable to partially realign elastically after a crumpling up for the formation of a ball structure. This feature is shown in Fig. 5 and allows a user to conveniently locate the lighting strip material assembly adjacent the material to be lit.

In the embodiment of claim 3, the thin paper strip and the thin plastic strip are, via opposite surfaces, partly united to each other by an adhesive strip. The partial uniting allows air increased access to the remaining surfaces and/or allows formation of pockets between the strips. Neither Ludde nor May teach such a feature, or the improvements and advantages thereof.

The remaining references do not resolve the deficiencies of Ludde and May. While Sullivan discloses an apparatus which may be formed in a plurality of sections, Sullivan fails to disclose a material assembly which is in a wound roll and yet is adapted to unwind to a non-compacted state adapted for lighting as presently claimed, and Sullivan provides no apparent reason for one of ordinary skill in the art to proceed contrary to the teachings of Ludde which aim for a tight, substantially solid roll fire kindler.

Kaplan discloses a liquid dispensing container for sauce or syrup. Not only does Kaplan fail to provide any teaching or suggestion of materials which are desirably inflammable, preventing proper combination with Ludde, Kaplan fails to disclose a material assembly which is in a wound roll and yet is adapted to unwind to a non-compacted state adapted for lighting as presently claimed. Kaplan provides no apparent reason for one of ordinary skill in the art to proceed contrary to the teachings of Ludde which aim for a tight, substantially solid roll fire kindler.

Kunkle discloses a polybutene sealing compound for glazing purposes. Not only does Kunkle fail to provide any teaching or suggestion of materials which are desirably inflammable,

preventing proper combination with Ludde, Kunkle fails to disclose a material assembly which is in a wound roll and yet is adapted to unwind to a non-compacted state adapted for lighting as presently claimed. Kunkle provides no apparent reason for one of ordinary skill in the art to proceed contrary to the teachings of Ludde which aim for a tight, substantially solid roll fire kindler.

Finally, Cote discloses a tissue box. Not only does Cote fail to provide any teaching or suggestion of materials which are desirably inflammable, preventing proper combination with Ludde, Cote fails to disclose a material assembly which is in a wound roll and yet is adapted to unwind to a non-compacted state adapted for lighting as presently claimed. Cote provides no apparent reason for one of ordinary skill in the art to proceed contrary to the teachings of Cote which aim for a tight, substantially solid roll fire kindler.

Accordingly, the material assemblies of the present invention are nonobvious over the various cited combinations of references, whereby the rejections under 35 U.S.C. §103 have been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the Official Action and places the present application in condition for allowance. Reconsideration and an early allowance are requested. The Examiner is urged to telephone the undersigned if any issues remain outstanding, prior to issuance of a further Official Action, in order to expedite any further prosecution.

Please charge any fees required in connection with the present communication, or credit any overpayment, to Deposit Account No. 503915.

Serial No. 10/577,180  
Amendment Filed February 15, 2010  
Reply to Official Action dated August 14, 2009

Respectfully submitted,

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